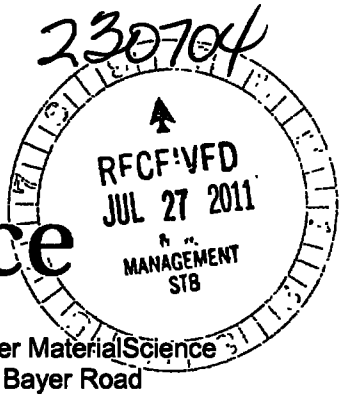
230704



Bayer MaterialScience

Bayer MaterialScience
100 Bayer Road
Pittsburgh, PA 15205-9741

July 25, 2011

Ms. Cynthia T. Brown
Director, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: Ex Parte No. 711 – Petition of The National Industrial Transportation League for Rulemaking To Adopt Revised Competitive Switching Rules

Dear Ms. Brown:

On July 7, 2011, The National Industrial Transportation League filed with the Surface Transportation Board a Petition asking the agency to initiate a rulemaking to adopt revised rules on competitive switching. The Petition follows the Board's general consideration of competition issues in Ex Parte No. 705, *Competition in the Railroad Industry.* In the Ex Parte No. 705 proceeding, the Board asked for new proposals and solutions to address competitive problems faced by shippers. The League's Petition responds to that request.

The Petition outlines the significant changes that have taken place in the railroad industry since the Interstate Commerce Commission adopted rules for reciprocal switching in 1985. The Petition also indicates that the agency has the power to change those rules. Most importantly, the Petition sets forth a detailed proposal for a new regime of competitive switching, under which competitive switching would be made available to shippers who are served by only a single, Class I rail carrier and who lack effective inter- or intramodal competition.

Bayer MaterialScience LLC is one of the leading producers of polymers and high-performance plastics in North America and is part of the global Bayer MaterialScience business with approximately 14,400 employees at 30 production sites around the world and 2010 sales of 10.2 billion euros. Bayer MaterialScience North American sales were 2.0 billion euros in 2010. The company manufactures high-tech polymer materials and develops innovative solutions for products used in many areas of daily life. The main segments served are the automotive, electrical and electronics, construction, medical, and sports and leisure industries. Primary products shipped by rail are polyurethane, polycarbonate and coatings raw materials.

Bayer MaterialScience depends on the American rail system for about 15,000 shipments per year. Two of our major production facilities lack head-to-head railroad competition. What's

more, many of our customer sites, distribution centers and warehouses are captive sites. This means the vast majority of our rail shipments are captive to a single railroad on either the origin or destination end. Lacking the negotiation flexibility and bargaining power that competition provides, rail freight rates continue to rise unchecked, even in times of recession. This explains why captive rates may reach or exceed twice the amount of a competitive rate. In addition to the rates, we have experienced service related issues at our captive facilities that are not addressed as timely as those sites open to competition.

Bayer MaterialScience strongly urges the Board to grant the League's Petition and to issue a Notice of Proposed Rulemaking on the proposal detailed by the League. Bayer MaterialScience believes that the League's proposal represents a fair and balanced effort to improve the state of competition in the rail transportation industry, and would provide increased competition for captive shippers without harming carriers. Issuance of a Notice of Proposed Rulemaking on the League's proposal would permit the industry as a whole to comment on the proposal and to guide the Board in its effort to improve the state of competition in the rail industry.

Sincerely,

Tom Balzer
Sr. Vice President
Supply Chain Center - NAFTA
Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, PA 15205-9741
Phone: 412-777-7665
Email: tom.balzer@bayer.com